

C. Requirements for PM Emissions Reductions from the FCCUs.

173. For each failure to meet any FCCU Final PM Limit that ExxonMobil accepts pursuant to Paragraph 35 (if applicable), per day, per FCCU: \$500 for the first day of non-compliance in which the specified short-term rolling average exceeds the applicable limit, and \$1,500 for each day thereafter until ExxonMobil demonstrates compliance with the applicable limit.

174. For failure to conduct PM testing, as required by Paragraph 37, per day, per FCCU:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$200
31 st through 60 th day after deadline	\$500
Beyond 60 th day after deadline	\$1000

D. Requirements for CO Emissions Reductions from the FCCUs.

175. For each failure to meet any FCCU Final CO Limit that ExxonMobil accepts pursuant to Paragraph 40 (if applicable), per day, per FCCU: \$750 for each calendar day in a calendar quarter in which the short-term rolling average exceeds the applicable limit; and \$2,500 for each calendar day in a calendar quarter on which the specified 365-day rolling average exceeds the applicable limit.

176. For failure to install, certify, calibrate, maintain, and/or operate a CEMS, as required by Paragraph 42, per day, per CEMS:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$500
31 st through 60 th day after deadline	\$1,000
Beyond 60 th day after deadline	\$2,000, or, an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

E. Requirements Related to NSPS Applicability to FCCU Regenerators.

177. For failure to comply with NSPS Subparts A and J limits applicable to a particular FCCU's catalyst regenerator, as required by Paragraphs 34, 39, and 43, per pollutant, per unit, per day in a calendar quarter:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day	\$1,000
31 st through 60 th day	\$2,000
Over 60 days	\$3,000 or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

178. For failure to comply with any of the Particular Requirements Applicable to the Baton Rouge FCCUs specified by Subparagraphs 44.b and 44.c: \$3,000 per day of non-compliance, or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

F. Requirements for NOx Emission Reductions from Combustion Units.

179. For failure to install selected Qualifying Controls on Combustion Units or to reduce NOx emissions from Combustion Units as required by Paragraphs 47, 50, or 51, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$2,500
31 st through 60 th day after deadline	\$6,000
Beyond 60 th day after deadline	\$10,000, or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

180. For failure to comply with the applicable monitoring requirements as set forth in Paragraphs 53 and 54, per Combustion Unit, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$500
31 st through 60 th day after deadline	\$1,000
Beyond 60 th day after deadline	\$2,000, or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

181. For failure to submit the written deliverables required by Paragraph 49, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$200
31 st through 60 th day after deadline	\$500
Beyond 60 th day after deadline	\$1,000

G. Requirements for SO₂ Emission Reductions from Heaters, Boilers, and Other Fuel Gas Combustion Devices.

182. For burning in any heater or boiler (including but not limited to those listed in Appendix C) or in any Other Fuel Gas Combustion Device (listed in Appendix D) any refinery fuel gas in violation of the applicable requirements of NSPS Subparts A and J after the Entry Date or, if the device is listed in Appendix C or D, after the date set forth in Appendix C or D on which the respective device becomes an “affected facility” subject to NSPS Subparts A and J, as set forth in Subsection V.H., per device, per day in a calendar quarter:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day	\$2,500
Beyond 31 st day	\$5,000 or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

183. For burning Fuel Oil in a manner inconsistent with the requirements of Paragraph 60, per device, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day	\$1,750
Beyond 31 st day	\$5,000

H. Requirements for Sulfur Recovery Plants.

184. For failure to comply with the NSPS Subparts A and J emission limits at a Sulfur Recovery Plant listed in Paragraph 63, as specified in Subparagraph 64.a, per day, per SRP:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day	\$1,000
31 st through 60 th day	\$2,000
Over 60 days	\$3,000 or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

185. For failure to comply with NSPS Subparts A and J monitoring requirements at a Sulfur Recovery Plant listed in Paragraph 63, as specified in Subparagraph 64.b, per day, per SRP:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$500
Beyond 31 st day after deadline	\$1,500
Beyond 60 th day after deadline	\$2,000

186. For failure to develop a Preventive Maintenance and Operation Plan as specified in Paragraph 65, per day, per Plan:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$500
Beyond 31 st day after deadline	\$1,500
Beyond 60 th day after deadline	\$2,000

187. For failure to complete the Baton Rouge and Joliet optimization studies and reports as required by Paragraph 66, per Refinery, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$500
Beyond 31 st day after deadline	\$1,500
Beyond 60 th day after deadline	\$2,000

188. For failure to comply with any of the Particular Requirements for Baton Rouge FCCUs specified by Subparagraphs 67.a - 67.d: \$3,000 per day of non-compliance, or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

189. For failure to comply with an Interim Performance Standard applicable to the Joliet East Claus Train or the Joliet West Claus Train under Subparagraph 68.b, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day	\$1,000
31 st through 60 th day	\$2,000
Over 60 days	\$3,000 or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

190. For failure to manage all sulfur pit emissions in accordance with the requirements of Paragraph 69, per day, per Refinery:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day	\$1,000
31 st through 60 th day	\$1,750
Beyond 60 th day	\$4,000 or an amount equal to 1.2 times the economic benefit of non-compliance whichever is greater.

I. Requirements for Flaring Devices.

191. For failure to comply with the requirement in Paragraphs 71 and 73 that an NSPS Flaring Device comply with the compliance method specified in Appendix G, by the date specified in Appendix G, per day, per device:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$500
Beyond 31 st day after deadline	\$1,500
Beyond 60 th day after deadline	\$2,000

Provided, however, that if stipulated penalties could be assessed under both Paragraphs 191 and 192, the provisions of Paragraph 192 shall control.

J. Requirements for Control of AG Flaring Incidents and Tail Gas Incidents.

192. For AG Flaring Incidents and/or Tail Gas Incidents for which ExxonMobil is liable under Subsection V.K:

Tons Emitted in Flaring Incident or Tail Gas Incident	Length of Time from Commencement of Flaring within the Flaring Incident to Termination of Flaring within the Flaring Incident is 3 hours or less; Length of Time of the Tail Gas Incident is 3 hours or less	Length of Time from Commencement of Flaring within the Flaring Incident to Termination of Flaring within the Flaring Incident is greater than 3 hours but less than or equal to 24 hours; Length of Time of the Tail Gas Incident is greater than 3 hours but less than or equal to 24 hours	Length of Time of Flaring within the Flaring Incident is greater than 24 hours; Length of Time of the Tail Gas Incident is greater than 24 hours
5 Tons or less	\$500 per Ton	\$750 per Ton	\$1,000 per Ton
Greater than 5 Tons, but less than or equal to 15 Tons	\$1,200 per Ton	\$1,800 per Ton	\$2,300 per Ton, up to, but not exceeding, \$27,500 in any one calendar day
Greater than 15 Tons	\$1,800 per Ton, up to, but not exceeding, \$27,500 in any one calendar day	\$2,300 per Ton, up to, but not exceeding, \$27,500 in any one calendar day	\$27,500 per calendar day for each calendar day over which the Flaring Incident lasts

For purposes of calculating stipulated penalties pursuant to this Paragraph, only one cell within the matrix shall apply. Thus, for example, for an AG Flaring Incident in which the flaring starts at 1:00 p.m. and ends at 3:00 p.m., and for which 14.5 tons of sulfur dioxide are emitted, the penalty would be \$17,400 (14.5 x \$1,200); the penalty would not be \$13,900 [(5 x \$500) + (9.5 x \$1200)]. For purposes of determining which column in the table set forth in this Paragraph applies under circumstances in which flaring occurs intermittently during an

AG Flaring Incident, the flaring shall be deemed to commence at the time that the flaring that triggers the initiation of an AG Flaring Incident commences, and shall be deemed to terminate at the time of the termination of the last episode of flaring within the AG Flaring Incident. Thus, for example, for flaring within an AG Flaring Incident that (i) starts at 1:00 p.m. on Day 1 and ends at 1:30 p.m. on Day 1; (ii) recommences at 4:00 p.m. on Day 1 and ends at 4:30 p.m. on Day 1; (iii) recommences at 1:00 a.m. on Day 2 and ends at 1:30 a.m. on Day 2; and (iv) for which no further Flaring occurs within the Flaring Incident, the flaring within the AG Flaring Incident shall be deemed to last 12.5 hours -- not 1.5 hours -- and the column for flaring of "greater than 3 hours but less than or equal to 24 hours" shall apply.

193. For failure to timely submit any report required by Subsection V.K, or for submitting any report that does not substantially conform to its requirements:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

194. For those corrective action(s) which ExxonMobil: (i) agrees to undertake following receipt of an objection by EPA pursuant to Paragraph 81; or (ii) is required to undertake following dispute resolution, then, from the date of EPA's receipt of ExxonMobil's report under Paragraph 80 of this Consent Decree until the date that either: (i) a final agreement is reached between EPA and ExxonMobil regarding the corrective action; or (ii) a court order regarding the corrective action is entered, ExxonMobil shall be liable for stipulated penalties as follows:

i.	<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
	Days 1-120	\$50
	Days 121-180	\$100
	Days 181 - 365	\$300
	Over 365 Days	\$3,000

or

- ii. 1.2 times the economic benefit resulting from ExxonMobil's failure to implement the corrective action(s).

195. For failure to complete any corrective action under Paragraph 81 of this Decree in accordance with the schedule for such corrective action agreed to by ExxonMobil or imposed on ExxonMobil pursuant to the dispute resolution provisions of this Decree (with any such extensions thereto as to which EPA and ExxonMobil may agree in writing):

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$1,000
Days 31-60	\$2,000
Over 60	\$5,000

K. Requirements for Control of Hydrocarbon Flaring Incidents.

196. For each failure to perform a Root Cause analysis or submit a written report or perform corrective actions for an HC Flaring Incident, as required by Paragraph 92:

<u>Period of Non-Compliance</u>	<u>Penalty per day per Incident</u>
1st through 30th day	\$500
31st through 60th day	\$1,500
Beyond 60th day	\$3,000

L. Requirements for CERCLA/EPCRA Reporting.

197. For failure to perform a CERCLA/EPCRA Compliance Review, submit a CERCLA/EPCRA Compliance Review Report, or perform corrective actions, as required by Paragraph 95, per refinery:

<u>Period of Non-Compliance</u>	<u>Penalty per day per Incident</u>
1st through 30th day	\$500
31st through 60th day	\$1,500
Beyond 60th day	\$3,000

198. For each failure to submit a CERCLA/EPCRA report on a release at the Joliet Refinery, as required by Paragraph 96:

<u>Period of Non-Compliance</u>	<u>Penalty per day per violation</u>
1st through 7th day	\$750
8th through 14th day	\$1,500
Beyond 14th day	\$5,000

ExxonMobil's obligation to pay stipulated penalties under this Paragraph 198 shall cease if:

(i) at least thirty-six months have elapsed since the Entry Date; and (ii) stipulated penalties have not been assessed under this Paragraph 198 during the most recent thirty-six months.

M. Requirements for Benzene Waste NESHAP Program Enhancements.

199. For each violation in which a frequency is specified in Subsection V.N., the amounts identified below shall apply on the first day of violation, and shall be calculated for each incremental period of violation (or portion thereof):

a. For failure to complete a BWON Compliance Review and Verification Report as required by Paragraph 100: \$7,500 per month, per refinery.

b. For failure to submit a BWON Corrective Measures Plan as required by Subparagraph 101.b, or for failure to implement Plan and to certify compliance as required by Subparagraphs 101.c and 101.d, per refinery:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$1,250
31 st through 60 th day after deadline	\$3,000
Beyond 60 th day	\$5,000, or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater.

- c. For failure to comply with the requirements set forth in Paragraph 102 related to the use, monitoring, and replacement of carbon canisters: \$1,000 per incident of non-compliance, per day.
- d. For failure to implement the training requirements of Paragraph 106: \$10,000 per quarter.
- e. For failure to establish an annual review program to identify new benzene waste streams as required by Paragraph 103: \$2,500 per month, per refinery.
- f. For failure to perform laboratory audits as required by Paragraph 104: \$5,000 per month, per audit.
- g. For failure to submit or maintain any plans or other deliverables required by Paragraph 107: \$2,000 per deliverable.
- h. For failure to conduct sampling in accordance with the sampling plans required by Paragraphs 108 or 109: \$30,000 per quarter, per stream, whichever is greater, but not to exceed \$150,000 per quarter, per refinery.
- i. For failure to submit a BWON Corrective Measures Plan or retain the third-party contractor required by Paragraph 111: \$10,000 per month.
- j. For failure to conduct monthly visual inspections of all Subpart FF water traps as required by Subparagraph 112.a.i: \$500 per drain not inspected;
- k. For failure to monitor Subpart FF conservation vents as required by Subparagraph 112.a.ii: \$500 per vent not monitored;
- l. For failure to conduct monitoring of oil-water separators as required by Subparagraph 112.a.iii: \$1,000 per month, per unit not monitored;

m. For failure to identify/mark segregated stormwater drains as required in Subparagraph 112.b: \$1,000 per week per drain not identified/marked as required;

n. For failure to submit any of the written deliverables required by Subsection V.N (except for those deliverables for which stipulated penalties are specified in Subparagraphs 199.a, 199.b, 199.g, or 199.i): \$1,000 per week, per deliverable not submitted.

N. Requirements for Leak Detection and Repair Program Enhancements.

200. For each violation in which a frequency is specified in Subsection V.O the amounts identified below shall apply on the first day of violation, and shall be calculated for each incremental period of violation (or portion thereof):

a. For failure to develop an LDAR Program Description as required by Paragraph 117: \$3,500 per week, per refinery.

b. For failure to implement the training program specified in Paragraph 118: \$10,000 per month, per refinery.

c. For failure to conduct any of the LDAR Audits described in Paragraph 120: \$5,000 per month, per audit, per refinery.

d. For failure to implement any actions necessary to correct non-compliance as required in Paragraph 121:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$1,250
31 st through 60 th day after deadline	\$3,000
Beyond 60 th day	\$5,000, or an amount equal to 1.2 times the economic benefit of non-compliance, whichever is greater

e. For failure to perform monitoring utilizing the lower internal leak rate definitions as specified in Paragraph 122: \$100 per component, but not greater than \$10,000 per month, per process unit.

f. For failure to perform LDAR monitoring at the frequency required by Paragraph 123: \$100 per component, but not greater than \$10,000 per month, per refinery.

g. For failure to make first repair attempts within 5 days and/or take other actions required by Paragraph 124: \$100 per component but not greater than \$10,000 per month, per refinery (except that Subparagraph 200.h shall apply in lieu of this Subparagraph 200.g where both Subparagraphs are potentially applicable).

h. For failure to implement the “initial attempt” repair program set forth in Paragraph 126: \$100 per component, but not to exceed \$10,000 per month, per refinery.

i. For failure to implement the QA/QC procedures described in Paragraph 128: \$1,000 per incident, but not greater than \$10,000 per month, per refinery.

j. For failure to designate a person or position responsible for LDAR management as required by Paragraph 119, or for failure to implement the maintenance tracking program required by Subparagraph 117.iv: \$3,500 per week, per refinery.

k. For failure to use dataloggers or maintain electronic data as required by Paragraph 127: \$5,000 per month, per refinery.

l. For failure to conduct and record the calibrations and the calibration drift assessments or remonitor valves and pumps based on calibration drift assessments in Paragraph 129: \$100 per missed event.

m. For failure to comply with the requirements for delay of repair set forth at Paragraph 130: \$5,000 per valve or pump, per incident of non-compliance.

n. For failure to submit a written submission to EPA and/or an Applicable Co-Plaintiff as required by Subsection V.O (except where a more specific stipulated penalty provision applies to a submission under this Subsection XI.N): \$500 per week, per submission.

o. If it is determined through a federal, state, or local investigation that ExxonMobil has failed to include any valves or pumps in its LDAR program, ExxonMobil shall pay \$175 per component that it failed to include.

p. For failure to comply with the requirements for chronic leakers set forth at Paragraph 131: \$5,000 per valve.

O. Other Compliance Program Requirements for the Billings and Joliet Refineries.

201. For failure to comply with the following Joliet Wastewater Treatment Area Program Requirements under Paragraph 134 and Appendix P:

a. For failure to timely submit the WWTP Area Wastewater Monitoring Plan required by Paragraph 2 of Appendix P, or for submitting a WWTP Area Wastewater Monitoring Plan that does not substantially conform to the requirements of this Consent Decree:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

b. For failure to meet the scheduling milestones of the EPA-approved WWTP Area Wastewater Monitoring Plan:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

c. For failure to timely submit a WWTP Area Wastewater Monitoring Plan Quarterly Report required by Paragraph 4 of Appendix P, or for submitting a WWTP Area Wastewater Monitoring Plan Quarterly Report that does not substantially conform to the requirements of Appendix P:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

d. For failure to timely submit the WWTP Area Wastewater Monitoring Plan Final Report required by Paragraph 5 of Appendix P, or for submitting a WWTP Area Wastewater Monitoring Plan Final Report that does not substantially conform to the requirements of Appendix P:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

e. For failure to meet the scheduling milestones contained in the EPA-approved WWTP Area Wastewater Monitoring Plan Final Report:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

f. For failure to timely submit the Sludge Characterization and Removal Plan required by Paragraph 6 of Appendix P, or for submitting a Sludge Characterization and Removal Plan that does not substantially conform to the requirements of Appendix P:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

g. For failure to meet the scheduling milestones contained in the EPA-approved Sludge Characterization and Removal Plan:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

h. For failure to comply with any requirement of Paragraph 7 of Appendix P relating to Aggressive Biological Treatment at the Joliet Refinery EBTU:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

i. For failure to timely submit the Groundwater and Soil Characterization Plan required by Paragraph 8 of Appendix P, or for submitting a Groundwater and Soil Characterization Plan that does not substantially conform to the requirements of Appendix P:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

j. For failure to meet the scheduling milestones contained in the EPA-approved Groundwater and Soil Characterization Plan:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

k. For failure to comply with an effluent limitation specified by the Joliet Refinery NPDES Permit, as required by Subparagraph 3.a of Appendix P:

(1) For a violation of a daily maximum limit:

\$2,000 for the first exceedance of a specified effluent limitation at a particular monitoring point;

\$4,000 for the second exceedance of the same specified effluent limitation at a particular monitoring point; and

\$5,000 for the third exceedance and each subsequent exceedance of the same specified effluent limitation at a particular monitoring point.

(2) For a violation of a 30-day average limit:

\$5,000 for the first exceedance of a specified effluent limitation at a particular monitoring point;

\$8,000 for the second exceedance of the same specified effluent limitation at a particular monitoring point; and

\$10,000 for the third exceedance and each subsequent exceedance of the same specified effluent limitation at a particular monitoring point.

(3) Time Period for Accrual of Stipulated Penalties under this

Subparagraph 201.k. Stipulated penalties for any noncompliance with the effluent limitations of the Joliet Refinery NPDES Permit covered by this Subparagraph 201.k shall accrue for at least thirty-six (36) months after the Entry Date, provided that after the initial twenty-four (24) month period, ExxonMobil's obligation to pay stipulated penalties under this Subparagraph 201.k shall cease with respect to a specific effluent limitation at a particular monitoring point at such time that ExxonMobil demonstrates continuous compliance with that effluent limitation at that particular monitoring point as reported in its Discharge Monitoring Reports over a rolling consecutive twelve (12) month period.

202. For failure to comply with any requirement of Paragraph 135 relating to the Joliet

Material Staging Area:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

203. For failure to timely submit the materials related to the Joliet RCRA Training Requirements required by Paragraph 136, or for submitting such materials required by Paragraph 136 that do not substantially conform to the requirements of this Consent Decree:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

204. For failure to designate both the Billings Scrap Yard and the Laydown Areas as Solid Waste Management Units and/or Areas of Concern as required under Paragraph 137:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

205. For failure to timely submit modifications to the Billings Stormwater Pollution Prevention Plan required by Subparagraph 137.c, or for submitting such materials required by Paragraph 137.c that do not substantially conform to the requirements of this Consent Decree:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

206. For failure to timely seek amendments to the Billings Refinery RCRA permit related to waste application at the Land Treatment Unit required by Paragraph 138, or for submitting such materials required by Paragraph 138 that do not substantially conform to the requirements of this Consent Decree:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

207. For failure to timely submit proposed amendments to the Billings Refinery Montana Pollutant Discharge Elimination System Permit related to oil sheen required by Paragraph 139, or for submitting such materials required by Paragraph 139 that do not substantially conform to the requirements of this Consent Decree:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

208. For failure to comply with any requirement of Paragraph 140 relating to Billings Refinery Tank 350:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
Over 60 days	\$3,000

P. Requirements to Incorporate Consent Decree Requirements into Federally-Enforceable Permits.

209. For each failure to submit an application as required by Paragraphs 141 and 142:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
Days 1-30	\$800
Days 31-60	\$1,500
Over 60 Days	\$3,000

Q. Requirements for Reporting and Recordkeeping.

210. For failure to submit reports as required by Section IX, per report, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$300
31 st through 60 th day after deadline	\$1,000
Beyond 60 th day	\$2,000

R. Requirements for Environmentally Beneficial Projects and Civil Penalties.

211. For failure to timely complete implementation of a SEP required under Section VIII, per day:

<u>Period of Non-Compliance</u>	<u>Penalty per day</u>
1 st through 30 th day after deadline	\$1,000
31 st through 60 th day after deadline	\$1,500
Beyond 60 th day	\$2,000

212. For failure to make any civil penalty payment required by Paragraph 162 of this Consent Decree, ExxonMobil shall be liable for \$15,000 per day, and interest on the amount overdue at the rate specified in 28 U.S.C. § 1961(a).

S. Requirement to Pay Stipulated Penalties.

213. ExxonMobil shall be liable for \$2,500 per day, and interest on the amount overdue at the rate specified in 28 U.S.C. § 1961(a), for failure to do either of the following within sixty (60) days after receipt of a written demand pursuant to Paragraph 214: (i) pay stipulated penalties as required by Paragraph 165 of this Consent Decree; or (ii) place the amount of stipulated penalties demanded in escrow pursuant to Paragraph 215.

T. Payment of Stipulated Penalties.

214. ExxonMobil shall pay stipulated penalties (as required under Paragraph 165) upon written demand by the United States or the Applicable Co-Plaintiff no later than sixty (60) days after ExxonMobil receives such demand. Demand from either the United States or an Applicable Co-Plaintiff shall be deemed a demand from both, but the United States and the Applicable Co-Plaintiff shall consult with each other prior to making a demand. If there is no Applicable Co-Plaintiff, stipulated penalties owed by ExxonMobil shall be paid 100 percent to the United States. If there is an Applicable Co-Plaintiff, stipulated penalties owed by

ExxonMobil shall be paid 50 percent to the United States and 50 percent to the Applicable Co-Plaintiff. Stipulated penalties shall be paid to the United States and to the Applicable Co-Plaintiff in the manner set forth in Section X (Civil Penalty) of this Consent Decree. A demand for the payment of stipulated penalties will identify the particular violation(s) to which the stipulated penalty relates, the stipulated penalty amount the United States or the Applicable Co-Plaintiff is demanding for each violation (as can be best estimated), the calculation method underlying the demand, and the grounds upon which the demand is based. After consultation with each other, the United States and the Applicable Co-Plaintiff may, in their unreviewable discretion, waive payment of any portion of stipulated penalties that may accrue under this Consent Decree.

U. Stipulated Penalties Dispute.

215. Should ExxonMobil dispute the United States' and/or an Applicable Co-Plaintiff's demand for all or part of a stipulated penalty, it may avoid the imposition of a stipulated penalty for failure to pay a stipulated penalty under Paragraph 213 by placing the disputed amount demanded in a commercial escrow account pending resolution of the matter and by invoking the dispute resolution provisions of Section XV within the time provided in Paragraph 214 for payment of stipulated penalties. If the dispute is thereafter resolved in ExxonMobil's favor, the escrowed amount plus accrued interest shall be returned to ExxonMobil; otherwise, the United States and the Applicable Co-Plaintiff shall be entitled to the amount that was determined to be due by the Court, plus the interest that has accrued in the escrow account on such amount. The United States and the Applicable Co-Plaintiff reserve the right to pursue any other non-monetary remedies to which they are legally entitled, including but not limited to, injunctive relief for ExxonMobil's violations of this Consent Decree.

XII. INTEREST

216. After the date on which a payment is due under this Consent Decree, ExxonMobil shall be liable for interest on the unpaid balance of the civil penalty specified in Section X, and for interest on any unpaid balance of stipulated penalties to be paid in accordance with Section XI. All such interest shall accrue at the rate established pursuant to 28 U.S.C. § 1961(a) – i.e., a rate equal to the coupon issue yield equivalent (as determined by the Secretary of Treasury) of the average accepted auction price for the last auction of 52-week U.S. Treasury bills settled prior to the Date of Lodging of the Consent Decree. Interest shall be computed daily and compounded annually. Interest shall be calculated from the date payment is due under the Consent Decree through the date of actual payment. For purposes of this Section XII, interest pursuant to this Paragraph will cease to accrue on the amount of any stipulated penalty payment made into an interest bearing escrow account as contemplated by Paragraph 215 of the Consent Decree. Monies timely paid into escrow shall not be considered to be an unpaid balance under this Section.

XIII. RIGHT OF ENTRY

217. Any authorized representative of EPA or an Applicable Co-Plaintiff, including independent contractors, upon presentation of credentials, shall have a right of entry upon the premises of the facilities of any Covered Refinery, at any reasonable time for the purpose of monitoring compliance with the provisions of this Consent Decree, including inspecting plant equipment, and inspecting and copying all records maintained by ExxonMobil pursuant to the requirements of this Consent Decree or in the ordinary course of ExxonMobil's business that are deemed necessary by EPA or the Applicable Co-Plaintiff to verify compliance with this Consent Decree. ExxonMobil shall retain records required under this Consent Decree for the period of

the Consent Decree. Nothing in this Consent Decree shall limit the authority of EPA or an Applicable Co-Plaintiff to conduct tests, inspections, or other activities under any statutory or regulatory provision.

XIV. FORCE MAJEURE

218. If any event occurs which causes or may cause a delay or impediment to performance in complying with any provision of this Consent Decree, ExxonMobil shall notify EPA and the Applicable Co-Plaintiff in writing as soon as practicable, but in any event within ten (10) business days of the date when ExxonMobil first knew of the event or should have known of the event by the exercise of due diligence. In this notice, ExxonMobil shall specifically reference this Paragraph 218 of this Consent Decree and describe the anticipated length of time the delay may persist, the cause or causes of the delay, and the measures taken or to be taken by ExxonMobil to prevent or minimize the delay and the schedule by which those measures shall be implemented. ExxonMobil shall take all reasonable steps to avoid or minimize such delays. The notice required by this Section shall be effective upon the mailing of the same by certified mail, return receipt requested, to EPA and the Applicable Co-Plaintiff as specified in Paragraph 266 (Notice).

219. Failure by ExxonMobil to substantially comply with the notice requirements of Paragraph 218 as specified above shall render this Section XIV (Force Majeure) voidable by the United States, in consultation with the Applicable Co-Plaintiff, as to the specific event for which ExxonMobil has failed to comply with such notice requirement, and, if voided, is of no effect as to the particular event involved.

220. The United States, after consultation with the Applicable Co-Plaintiff, shall notify ExxonMobil in writing regarding its claim of a delay or impediment to performance within thirty (30) days of receipt of the force majeure notice provided under Paragraph 218.

221. If the United States, after consultation with the Applicable Co-Plaintiff, agrees that the delay or impediment to performance has been or will be caused by circumstances beyond the control of ExxonMobil, including any entity controlled by ExxonMobil, and that ExxonMobil could not have prevented the delay by the exercise of due diligence, the Parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay by a period equivalent to the delay actually caused by such circumstances or such other period as may be appropriate under the circumstances. Such stipulation shall be filed as a modification to the Consent Decree pursuant to the modification procedures established in this Consent Decree. ExxonMobil shall not be liable for stipulated penalties for the period of any such delay.

222. If the United States, after consultation with the Applicable Co-Plaintiff, does not accept ExxonMobil's claim of a delay or impediment to performance, ExxonMobil must submit the matter to the Court for resolution to avoid payment of stipulated penalties, by filing a petition for determination with the Court. In the event the United States and the Applicable Co-Plaintiff do not agree, the position of the United States on the force majeure claim shall become the final Plaintiffs' position. Once ExxonMobil has submitted this matter to the Court, the United States and the Applicable Co-Plaintiff shall have twenty (20) business days to file their responses to the petition. If the Court determines that the delay or impediment to performance has been or will be caused by circumstances beyond the control of ExxonMobil, including any entity controlled by ExxonMobil, and that the delay could not have been prevented by ExxonMobil by the

exercise of due diligence, ExxonMobil shall be excused as to that event(s) and delay (including stipulated penalties), for all requirements affected by the delay for a period of time equivalent to the delay caused by such circumstances or such other period as may be determined by the Court.

223. ExxonMobil shall bear the burden of proving that any delay in meeting any requirement(s) of this Consent Decree was caused by or will be caused by circumstances beyond its control, including any entity controlled by it, and that it could not have prevented the delay by the exercise of due diligence. ExxonMobil shall also bear the burden of proving the duration and extent of any delay(s) attributable to such circumstances. An extension of one compliance date based on a particular event may, but will not necessarily, result in an extension of a subsequent compliance date or dates.

224. Unanticipated or increased costs or expenses associated with the performance of ExxonMobil's obligations under this Consent Decree shall not constitute circumstances beyond its control, or serve as the basis for an extension of time under this Section XIV.

225. Notwithstanding any other provision of this Consent Decree, this Court shall not draw any inferences nor establish any presumptions adverse to either Party as a result of ExxonMobil serving a force majeure notice or the Parties' inability to reach agreement.

226. As part of the resolution of any matter submitted to this Court under this Section XIV, the Parties by agreement, or the Court, by order, may in appropriate circumstances extend or modify the schedule for completion of work under the Consent Decree to account for the delay in the work that occurred or will occur as a result of any delay or impediment to performance agreed to by the United States or approved by this Court. ExxonMobil shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule.

XV. RETENTION OF JURISDICTION / DISPUTE RESOLUTION

227. This Court shall retain jurisdiction of this matter for the purposes of implementing and enforcing the terms and conditions of the Consent Decree and for the purpose of adjudicating all disputes – including, but not limited to, determinations under Section V (Affirmative Relief) of the Consent Decree – among the Parties that may arise under the provisions of the Consent Decree, until the Consent Decree terminates in accordance with Section XVIII (Termination).

228. The dispute resolution procedure set forth in this Section XV shall be available to resolve all disputes arising under this Consent Decree, except only as otherwise provided in Section XIV regarding force majeure, provided that the Party making such application has made a good faith attempt to resolve the matter with the other Party.

229. Dispute resolution shall be commenced by one of the Parties under the Consent Decree by giving written notice to another Party advising of a dispute pursuant to this Section XV. The notice shall describe the nature of the dispute, and shall state the noticing Party's position with regard to such dispute. The Party receiving such a notice shall acknowledge receipt of the notice and the Parties shall expeditiously schedule a meeting to discuss the dispute informally not later than fourteen (14) days after the receipt of such notice.

230. Disputes submitted to dispute resolution shall, in the first instance, be the subject of informal negotiations between the Parties. Such period of informal negotiations shall not extend beyond thirty (30) calendar days from the date of the first meeting between representatives of the Parties, unless the Parties agree that this period should be extended.

231. In the event that the Parties are unable to reach agreement during such informal negotiation period, the United States or the Applicable Co-Plaintiff, as applicable, shall provide

ExxonMobil with a written summary of its position regarding the dispute. The position advanced by the United States or the Applicable Co-Plaintiff, as applicable, shall be considered binding unless, within forty-five (45) calendar days of ExxonMobil's receipt of the written summary of the United States' or the Applicable Co-Plaintiff's position, ExxonMobil files with the Court a petition which describes the nature of the dispute. The United States and/or the Applicable Co-Plaintiff shall respond to the petition within forty-five (45) calendar days of filing.

232. In the event that the United States and an Applicable Co-Plaintiff make differing determinations or take differing actions that affect ExxonMobil's rights or obligations under this Consent Decree, the determination or action of the United States shall control.

233. Where the nature of the dispute is such that a more timely resolution of the issue is required, the time periods set forth in this Section XV may be shortened upon motion of one of the Parties to the dispute.

234. The Parties do not intend that the invocation of this Section XV by a Party cause the Court to draw any inferences nor establish any presumptions adverse to either Party as a result of invocation of this Section or their inability to reach agreement.

235. As part of the resolution of any dispute submitted to dispute resolution, the Parties, by agreement, or this Court, by order, may, in appropriate circumstances, extend or modify the schedule for completion of work under this Consent Decree to account for the delay in the work that occurred as a result of dispute resolution. ExxonMobil shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule.

XVI. EFFECT OF SETTLEMENT

236. **Definitions.** For purposes of this Section XVI, the following definitions apply:

a. “Applicable NSR/PSD Requirements” shall mean:

- (i) PSD requirements at Part C of Subchapter I of the Act, 42 U.S.C. § 7475, and the regulations promulgated thereunder at 40 C.F.R. §§ 52.21 and 51.166, as amended from time to time;
- (ii) “Plan Requirements for Non-Attainment Areas” at Part D of Subchapter I of the Act, 42 U.S.C. §§ 7502-7503, and the regulations promulgated thereunder at 40 C.F.R. §§ 51.165 (a) and (b); 40 C.F.R. Part 51, Appendix S; and 40 C.F.R. § 52.24, as amended from time to time;
- (iii) Any Title V regulations that implement, adopt, or incorporate the specific regulatory requirements identified above, as amended from time to time; and
- (iv) Any applicable state or local laws or regulations that implement, adopt, or incorporate the specific federal regulatory requirements identified above regardless of whether such state or local laws or regulations have been formally approved by EPA as being a part of the applicable state implementation plan.

b. “Applicable NSPS Subparts A and J Requirements” shall mean the standards, monitoring, testing, reporting and recordkeeping requirements, found at 40 C.F.R. §§ 60.100 through 60.109 (Subpart J), relating to a particular pollutant and a particular affected facility, and the corollary general requirements found at 40 C.F.R. §§ 60.1 through 60.19 (Subpart A) that are applicable to any affected facility covered by Subpart J.

c. “Benzene Waste NESHAP Requirements” shall mean the requirements imposed by the National Emission Standard for Benzene Waste Operations, 40 C.F.R. Part 61, Subpart FF, and any applicable state, regional, or local regulations that implement, adopt or incorporate the Benzene Waste NESHAP.

d. “CERCLA/EPCRA Requirements” shall mean the reporting requirements for a given release of a hazardous substance imposed by Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

e. “LDAR Requirements” shall mean the requirements relating to equipment in light liquid service and gas and/or vapor service set forth at 40 C.F.R. Part 60, Subpart GGG; 40 C.F.R. Part 61, Subparts J and V; and 40 C.F.R. Part 63, Subparts F, H, and CC; and any applicable state, regional, or local regulations or State Implementation Plan requirements that implement, adopt or incorporate those federal regulations.

f. “Post-Lodging Compliance Dates” shall mean any dates in this Section XVI after the Date of Lodging (and/or after the Entry Date). Post-Lodging Compliance Dates include dates certain (e.g., “December 31, 2005”), dates after Lodging represented in terms of time after the Date of Lodging or the Entry Date (e.g., “180 days after the Date of Lodging” or “180 days after the Entry Date”), and dates after Lodging represented by actions taken (e.g., “Date of Certification”). The Post-Lodging Compliance Dates represent the dates by which work is required to be completed or an emission limit is required to be met under the applicable provisions of this Consent Decree.

237. Liability Resolution Regarding the Applicable NSR/PSD Requirements.

With respect to emissions of the following pollutants from the following units, entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiffs for alleged violations of the Applicable NSR/PSD Requirements resulting from construction or modification from the date of the pre-Lodging construction or modification up to the following dates:

<u>Unit</u>	<u>Pollutant</u>	<u>Date</u>
Baton Rouge PCLA 2	SO ₂ NO _x	January 1, 2006 455 days after the Entry Date
Baton Rouge PCLA 3	SO ₂ NO _x	January 1, 2006 455 days after the Entry Date
Baytown FCCU 2	SO ₂ NO _x	December 31, 2009 June 30, 2010
Baytown FCCU 3	SO ₂ NO _x	Entry Date June 30, 2010
Beaumont FCCU	SO ₂ NO _x	Entry Date October 1, 2009
Billings FCCU	SO ₂ NO _x	Either: (i) March 15, 2012, if the Final SO ₂ Limit is established by election of Option A under Subparagraph 29.b.(1); or (ii) the date on which a Final SO ₂ Limit is established by election of Option B under Subparagraph 29.b.(2) December 31, 2008
Joliet FCCU	SO ₂ NO _x	December 31, 2008 December 31, 2012
Torrance FCCU	SO ₂ NO _x	Entry Date Entry Date
All Combustion Devices listed in Appendix A	NO _x	September 30, 2010
All heaters and boilers other than those in Appendix A	NO _x	Entry Date
All heaters and boilers listed in Appendix C	SO ₂	Dates listed in or derived from Appendix C
All heaters and boilers other than those listed in Appendix C	SO ₂	Entry Date

All Other Fuel Gas Combustion
Devices listed in Appendix D

SO₂

Dates listed in or derived from
Appendix D

238. **Conditional Resolution of Liability for PM Emissions Under the Applicable**

NSR/PSD Requirements. With respect to emissions of PM from an FCCU at a Covered Refinery, if and when ExxonMobil accepts an emission limit of 0.5 pound PM per 1000 pounds of coke burned for the particular FCCU pursuant to Paragraph 35 and demonstrates compliance by conducting a performance test representative of normal operating conditions for the particular FCCU, then all civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiffs shall be resolved for alleged violations of the Applicable NSR/PSD Requirements relating to PM emissions at the particular FCCU resulting from pre-Lodging construction or modification of the particular FCCU.

239. **Conditional Resolution of Liability for CO Emissions Under the Applicable**

NSR/PSD Requirements. With respect to emissions of CO from an FCCU at a Covered Refinery, if and when ExxonMobil accepts the following long-term and short-term emission limits at the particular FCCU pursuant to Paragraph 40 and demonstrates compliance using CEMS or, where applicable, an AMP at the particular FCCU, then all civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiffs shall be resolved for alleged violations of the Applicable NSR/PSD Requirements relating to CO emissions at the particular FCCU resulting from pre-Lodging construction or modification of the particular FCCU:

Long-term limit: 150 ppmvd CO on a 365-day rolling average basis at 0% O₂

Short-term limit: 250 ppmvd CO on a 24-hour rolling average basis at 0% O₂

240. **Reservation of Rights regarding Applicable NSR/PSD Requirements:**

Release for Violations Continuing After the Date of Lodging Can be Rendered Void.

Notwithstanding the resolution of liability in Paragraphs 237, 238, and 239, the release of liability by the United States and the Applicable Co-Plaintiffs to ExxonMobil for alleged violations of the Applicable NSR/PSD Requirements during the period between the Date of Lodging of the Consent Decree and the Post-Lodging Compliance Dates shall be rendered void for a particular emissions unit if ExxonMobil materially fails to comply with the obligations and requirements of Subsections V.B - V.E and V.G for that unit; provided, however, that the release in Paragraphs 237, 238, and 239, shall not be rendered void if ExxonMobil remedies such material failure and pays any stipulated penalties due as a result of such material failure.

241. **Exclusions from Release Coverage Regarding Applicable NSR/PSD**

Requirements: Construction and/or Modification Not Covered by Paragraphs 237, 238, and 239. Notwithstanding the resolution of liability in Paragraphs 237, 238, and 239, nothing in this Consent Decree precludes the United States and/or the Applicable Co-Plaintiffs from seeking from ExxonMobil, injunctive relief, penalties, or other appropriate relief for violations by ExxonMobil of the Applicable NSR/PSD Requirements resulting from construction or modification that: (i) commenced prior to or commences after the Date of Lodging of the Consent Decree for pollutants or units not covered by the Consent Decree; or (ii) commences after the Date of Lodging of the Consent Decree for units covered by this Consent Decree.

242. **Evaluation of Applicable PSD/NSR Requirements Must Occur.** Increases in emissions from units covered by this Consent Decree, where the increases result from the Post-Lodging construction or modification of any units within any Covered Refinery, are beyond

the scope of the release in Paragraphs 237, 238, and 239, and ExxonMobil must evaluate any such increases in accordance with the Applicable PSD/NSR Requirements.

243. **Resolution of Liability Regarding Applicable NSPS Subparts A and J**

Requirements. With respect to emissions of the following pollutants from the following units, entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiffs for alleged violations of the Applicable NSPS Subparts A and J Requirements from the date that claims of the United States and the Applicable Co-Plaintiffs resulting from pre-Lodging construction or modification (including reconstruction) accrued up to the following dates:

<u>Unit</u>	<u>Pollutant</u>	<u>Date</u>
Baton Rouge PCLA 2	SO ₂	January 1, 2006
Baton Rouge PCLA 3	SO ₂	January 1, 2006
Baytown FCCU 2	SO ₂	December 31, 2006
	PM	December 31, 2009
	CO	Entry Date
	Opacity	Date of AMP Approval Receipt
Baytown FCCU 3	SO ₂	Entry Date
	PM	Entry Date
	CO	Entry Date
	Opacity	Date of AMP Approval Receipt
Beaumont FCCU	SO ₂	Entry Date
	PM	Entry Date
	CO	Entry Date
	Opacity	Date of AMP Approval Receipt
Billings FCCU	PM	December 31, 2006 or December 31, 2008 (depending on the deadline ultimately required by Subparagraph 34.b)
	CO	18 months after Entry Date
	Opacity	December 31, 2006

Joliet FCCU	SO ₂ PM CO Opacity	December 31, 2008 Entry Date 18 months after Entry Date Entry Date
Torrance FCCU	SO ₂ PM CO Opacity	Entry Date Entry Date Entry Date Entry Date
All heaters and boilers listed in Appendix C	SO ₂	Dates listed in or derived from Appendix C
All heaters and boilers other than those listed in Appendix C	SO ₂	Entry Date
All Other Fuel Gas Combustion Devices listed in Appendix D	SO ₂	Dates listed in or derived from Appendix D
Baytown SRP	SO ₂	Entry Date
Beaumont SRP	SO ₂	Entry Date
Joliet SRP	SO ₂	December 31, 2008
Torrance SRP	SO ₂	Entry Date
NSPS Flaring Devices Listed in Appendix G	SO ₂	Dates listed in or derived from Appendix G

244. **Reservation of Rights regarding Applicable NSPS Subparts A and J**

Requirements: Release for NSPS Violations Occurring After the Date of Lodging Can be Rendered Void. Notwithstanding the resolution of liability in Paragraphs 243, the release of liability by the United States and the Applicable Co-Plaintiffs to ExxonMobil for alleged violations of any Applicable NSPS Subparts A and J Requirements that occurred between the Date of Lodging and the Post-Lodging Compliance Dates shall be rendered void for a particular

emissions unit if ExxonMobil materially fails to comply with the obligations and requirements of Subsections V.F, V.H, V.I, V.J, V.K, and V.L, and Paragraphs 44-46 and 48-49 for that unit; provided, however, that the release in Paragraph 243 shall not be rendered void if ExxonMobil remedies such material failure and pays any stipulated penalties due as a result of such material failure.

245. **Conditional Resolution of Liability for the Applicable NSPS Subparts A and J Requirements for SO₂ for the Billings FCCU.** With respect to emissions of SO₂ from the Billings FCCU, if and when ExxonMobil elects to classify the Billings FCCU catalyst regenerator as an “affected facility,” as that term is used in the Applicable NSPS Subparts A and J Requirements for SO₂, and demonstrates compliance as required by the Applicable NSPS Subparts A and J Requirements for SO₂, then all civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiff shall be resolved for alleged violations of the Applicable NSPS Subparts A and J Requirements for SO₂ at the Billings FCCU catalyst regenerator resulting from pre-Lodging construction or modification (including reconstruction) of the Billings FCCU catalyst regenerator.

246. **Resolution of Liability for Certain Potential NSPS Violations Relating to the Baton Rouge Refinery.**

a. A single TGU serves as the control device for the 100 Claus Train, the 200 Claus Train, and the 400 Claus Train at the Baton Rouge Refinery.

b. The Baton Rouge 100 Claus Train and 200 Claus Train were constructed in 1972.

c. Between 1976 and 1979, ExxonMobil: (i) began operating the Baton Rouge TGU; (ii) constructed the 400 Claus Train; and (iii) began routing Tail Gas from the 100

Claus Train, the 200 Claus Train, and the 400 Claus Train to the TGU. Those physical changes in, and/or changes in the method of operation of, and/or replacement of components are referred to collectively in this Paragraph as the "Specified Baton Rouge Sulfur Recovery Project."

d. Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiffs for potential violations of the Applicable NSPS Subparts A and J Requirements resulting from the Specified Baton Rouge Sulfur Recovery Project.

246A. **Conditional Resolution of Liability for the Applicable NSPS Subparts A and J Requirements for CO for the Baton Rouge FCCUs.** With respect to emissions of CO from the Baton Rouge FCCUs, if at any time prior to termination ExxonMobil elects to classify each of the Baton Rouge FCCUs' catalyst regenerators as an "affected facility," as that term is used in the Applicable NSPS Subparts A and J Requirements for CO, and demonstrates initial compliance as required by the Applicable NSPS Subparts A and J Requirements for CO, then all civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiff shall be resolved for alleged violations of the Applicable NSPS Subparts A and J Requirements for CO at the Baton Rouge FCCUs resulting from Pre-Lodging construction or modification (including reconstruction) of the Baton Rouge FCCU catalyst regenerators.

246B. **Conditional Resolution of Liability for the Applicable NSPS Subparts A and J Requirements for PM for the Baton Rouge FCCUs.** With respect to emissions of PM from the Baton Rouge FCCUs, if at any time prior to termination ExxonMobil elects to classify each of the Baton Rouge FCCUs' catalyst regenerators as an "affected facility," as that term is used in the Applicable NSPS Subparts A and J Requirements for PM, and demonstrates initial compliance as required by the Applicable NSPS Subparts A and J Requirements for PM, then all

civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiff shall be resolved for alleged violations of the Applicable NSPS Subparts A and J Requirements for PM at the Baton Rouge FCCUs resulting from Pre-Lodging construction or modification (including reconstruction) of the Baton Rouge FCCU catalyst regenerators.

246C. **Conditional Resolution of Liability for the Applicable NSPS Subparts A and J Requirements for Opacity for the Baton Rouge FCCUs.** With respect to emissions of opacity from the Baton Rouge FCCUs, if at any time prior to termination ExxonMobil elects to classify each of the Baton Rouge FCCUs' catalyst regenerators as an "affected facility," as that term is used in the Applicable NSPS Subparts A and J Requirements for opacity, and demonstrates initial compliance with the Applicable NSPS Subparts A and J Requirements for opacity using an approved AMP, then all civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiff shall be resolved for alleged violations of the Applicable NSPS Subparts A and J Requirements for opacity at the Baton Rouge FCCUs resulting from Pre-Lodging construction or modification (including reconstruction) of the Baton Rouge FCCU catalyst regenerators.

247. **Prior NSPS Applicability Determinations.** Nothing in this Consent Decree shall affect the status of any FCCU, fuel gas combustion device, or sulfur recovery plant currently subject to NSPS as previously determined by any federal, state, or local authority or any applicable permit.

248. **Resolution of Liability Regarding CERCLA/EPCRA Requirements for Certain Pre-Lodging Acid Gas Flaring Incidents.** Upon receipt by EPA of ExxonMobil's CERCLA/EPCRA Compliance Review Report submitted pursuant to Paragraph 95, this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-

Plaintiffs for alleged violations of CERCLA/EPCRA Requirements associated with SO₂ and H₂S releases resulting from pre-Lodging Acid Gas Flaring Incidents at the Baton Rouge, Baytown, Beaumont, Billings, and Joliet Refineries to the extent that ExxonMobil has identified such violations in its CERCLA/EPCRA Compliance Review Report and corrected the violations as required by Paragraph 95.

249. **Resolution of Liability Regarding Benzene Waste NESHAP Requirements.**

Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiffs for alleged violations of Benzene Waste NESHAP Requirements at the Covered Refineries that either: (i) commenced and ceased prior to the Consent Decree Entry Date; or (ii) are based on events identified in the BWON Compliance Review and Verification Report required under Paragraph 100 and are corrected pursuant to the requirements of Paragraph 101.

250. **Resolution of Liability Regarding LDAR Requirements.** Entry of this Consent Decree shall resolve the civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiffs for alleged violations of LDAR Requirements at the Covered Refineries that either: (i) commenced and ceased prior to the Consent Decree Entry Date; or (ii) are based on events that are identified in the LDAR Initial Audit Report required under Subparagraph 120.b and are corrected pursuant to the requirements of Paragraph 121.

251. **Reservation of Rights Regarding CERCLA/EPCRA Requirements, Benzene Waste NESHAP Requirements, and LDAR Requirements.** Notwithstanding the resolution of liability in Paragraphs 248, 249, and 250, nothing in this Consent Decree precludes the United States and/or the Applicable Co-Plaintiffs from seeking from ExxonMobil civil penalties and/or injunctive relief and/or other equitable relief for violations by ExxonMobil of CERCLA/EPCRA

Requirements, Benzene Waste NESHAP Requirements, or LDAR Requirements that either

(i) commenced prior to the Consent Decree Entry Date and continued after the Entry Date; or

(ii) commenced after the Consent Decree Entry Date:

- i. if ExxonMobil fails to identify any such violation of CERCLA/EPCRA Requirements in its CERCLA/EPCRA Compliance Review Report and correct such violation as required by Paragraph 95;
- ii. if ExxonMobil fails to identify any such violation of Benzene Waste NESHAP Requirements in its BWON Compliance Review and Verification Report under Paragraph 100 and correct such violation as required by Paragraph 101; or
- iii. if ExxonMobil fails to identify any such violation of LDAR Requirements in its LDAR Initial Audit Report required under Subparagraph 120.b and correct such violation as required by Paragraph 121.

252. **Resolution of Liability for Certain Other Alleged Violations.**

a. **Claims Alleged in Certain EPA Notices of Violation and Findings of Violation.** Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and to the Applicable Co-Plaintiffs for the alleged past violations set forth in: (i) Notice of Violation EPA-5-00-IL-26 (dated August 29, 2000); (ii) Finding of Violation EPA-5-00-IL-27 (dated August 29, 2000); (iii) Finding of Violation EPA-5-00-IL-28 (dated August 29, 2000); (iv) EPA's Notice of Violation relating to the Baytown Refinery (dated January 19, 2001); (v) EPA's Notice of Violation relating to the Beaumont Refinery (dated December 20, 2001); and (vi) EPA's Notice of Violation and Finding of Violation relating to the Baton Rouge, Baytown, Beaumont, and Joliet Refineries (dated August 20, 2002).

b. **Additional Claims Concerning the Billings Refinery.** Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiff for the following alleged past violations:- (i) alleged violations of the CWA, 33 U.S.C. § 1251 et seq., identified during the June 2002 and/or July 2002 EPA

inspections at the Billings Refinery, as listed in Appendix I; (ii) alleged violations of RCRA, 42 U.S.C. § 6901 et seq., identified during the June 2002 and/or July 2002 EPA inspections at the Billings Refinery, as listed in Appendix I; (iii) alleged violations of release reporting requirements under CERCLA Section 103, 42 U.S.C. § 9603, and EPCRA Section 304, 42 U.S.C. § 11004, identified during the June 2002 and/or July 2002 EPA inspections at the Billings Refinery; and (iv) violations of any corresponding state or local laws or regulations arising out of any acts or omissions by ExxonMobil which formed the basis for such alleged CWA, RCRA, and CERCLA and EPCRA violations.

c. Additional Claims Concerning the Joliet Refinery.

(1) Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the United States and the Applicable Co-Plaintiff for the following alleged past violations: (i) alleged violations of RCRA, 42 U.S.C. § 6901 et seq., based on alleged past unauthorized treatment, storage, and/or disposal of hazardous waste in the diversion basin and/or the equalization/biological treatment unit at Joliet Refinery; (ii) alleged violations of RCRA, 42 U.S.C. § 6901 et seq., based on alleged past unauthorized treatment, storage, and/or disposal of certain hazardous paint wastes and/or certain hazardous sludge wastes on the Joliet Refinery's Material Staging Area; (iii) alleged violations of the CWA, 33 U.S.C. § 1251 et seq., based on alleged past unauthorized discharge of pollutants from the Joliet Refinery's coke pile to navigable waters of the United States; (iv) alleged violations of the CWA, 33 U.S.C. § 1251 et seq., based on alleged past unpermitted discharge of pollutants or discharge of pollutants in excess of the allowable permit limits to navigable waters of the United States, as listed in the table of alleged violations attached as Appendix J; (v) alleged violations of the CWA,

33 U.S.C. § 1251 et seq., based on any alleged past exceedance of combined outfall temperature limits imposed by Special Condition 2 of the Joliet Refinery's NPDES Permit between May 1996 and October 2004; (vi) alleged violations of reporting requirements under CERCLA Section 103, 42 U.S.C. § 9603, and EPCRA Section 304, 42 U.S.C. § 11004, listed in the table of alleged violations attached as Appendix K; and (vii) violations of any corresponding state or local laws or regulations arising out of any acts or omissions by ExxonMobil which formed the basis for such alleged RCRA, CWA, and CERCLA and EPCRA violations.

(2) Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the Applicable Co-Plaintiff for the alleged past violations at the Joliet Refinery specified in Appendix L.

d. Additional Claims Concerning the Baton Rouge Refinery. Entry of this Consent Decree shall resolve all civil liability of ExxonMobil to the Applicable Co-Plaintiff for the alleged past violations at the Baton Rouge Refinery specified in Appendix M.

253. Audit Policy. Nothing in this Consent Decree is intended to limit or disqualify ExxonMobil, on the grounds that information was not discovered and supplied voluntarily, from seeking to apply EPA's Audit Policy or any state audit policy to any violations or non-compliance that ExxonMobil discovers during the course of any investigation, audit, or enhanced monitoring that ExxonMobil is required to undertake pursuant to this Consent Decree.

254. Claim/Issue Preclusion. In any subsequent administrative or judicial proceeding initiated by the United States or any Applicable Co-Plaintiff for injunctive relief, penalties, or other appropriate relief relating to ExxonMobil for alleged violations of the

PSD/NSR, NSPS, NESHAP, and/or LDAR requirements, not identified in this Section XVI of the Consent Decree and/or the Complaint:

a. ExxonMobil shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting. Nor may ExxonMobil assert, or maintain, any other defenses based upon any contention that the claims raised by the United States or the Applicable Co-Plaintiffs in the subsequent proceeding were or should have been brought in the instant case. Nothing in the preceding sentences is intended to affect the ability of ExxonMobil to assert that the claims are deemed resolved by virtue of this Section XVI of the Consent Decree.

b. The United States and Applicable Co-Plaintiffs may not assert or maintain that this Consent Decree constitutes a waiver or determination of, or otherwise obviates, any claim or defense whatsoever, or that this Consent Decree constitutes acceptance by ExxonMobil of any interpretation or guidance issued by EPA related to the matters addressed in this Consent Decree.

255. **Imminent and Substantial Endangerment.** Nothing in this Consent Decree shall be construed to limit the authority of the United States or of the Applicable Co-Plaintiffs to undertake any action against any person, including ExxonMobil, to abate or correct conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

XVII. GENERAL PROVISIONS

256. **Other Laws.** Except as specifically provided by this Consent Decree, nothing in this Consent Decree shall relieve ExxonMobil of its obligation to comply with all applicable federal, state and local laws and regulations, permits, and administrative orders, including, but

not limited to, more stringent standards. In addition, nothing in this Consent Decree shall be construed to prohibit or prevent the United States or the Co-Plaintiffs from developing, implementing, and enforcing more stringent standards subsequent to the Date of Lodging of this Consent Decree through rulemaking, the permit process, or as otherwise authorized or required under federal, state, regional, or local laws and regulations. In addition, except as otherwise expressly provided in this Consent Decree, nothing in this Consent Decree is intended to eliminate, limit or otherwise restrict any compliance options, exceptions, exclusions, waivers, variances, or other right otherwise provided or available to ExxonMobil under any applicable statute, regulation, ordinance, regulatory or statutory determination, or permitting process. Subject to Section XVI (Effect of Settlement) and except as provided under Section XI (Stipulated Penalties), nothing contained in this Consent Decree shall be construed to prevent, alter or limit the United States' and the Applicable Co-Plaintiff's rights to seek or obtain other remedies or sanctions against ExxonMobil available under other federal, state or local statutes or regulations, in the event that ExxonMobil violates this Consent Decree or the statutes and regulations applicable to violations of this Consent Decree. This shall include the United States' and the Applicable Co-Plaintiff's right to invoke the authority of the Court to order ExxonMobil's compliance with this Consent Decree in a subsequent contempt action.

256A. **Changes to Law.** In the event that during the term of this Consent Decree there is a change in the statutes or regulations that provide the underlying basis for the Consent Decree such that ExxonMobil would not otherwise be required to perform any of the obligations herein or would have the option to undertake or demonstrate compliance in an alternative or different manner, ExxonMobil may petition the Court for relief from any such requirements, in accordance with Rule 60 of the Federal Rules of Civil Procedure. However, if ExxonMobil

applies to the Court for relief under this Paragraph, the United States and the Applicable Co-Plaintiff reserve the right to seek to void all or part of the resolution of liability reflected in Section XVI (Effect of Settlement). Nothing in this Paragraph is intended to enlarge the Parties' rights under Rule 60, nor is this Paragraph intended to confer on any Party any independent basis, outside of Rule 60, for seeking such relief. This Paragraph 256A does not apply to ExxonMobil's obligation to complete the environmentally beneficial projects referred to in Section VIII of this Consent Decree.

257. **Post-Permit Violations.** Nothing in this Consent Decree shall be construed to prevent or limit the right of the United States or the Applicable Co-Plaintiffs to seek injunctive or monetary relief for violations of permits issued as a result of the procedure required under Subsection V.Q of this Decree; provided, however, that with respect to civil monetary relief, the United States or the Applicable Co-Plaintiff must elect between filing a new action for such monetary relief or seeking stipulated penalties under this Consent Decree, if stipulated penalties also are available for the alleged violation(s).

258. **Compliance with Certain Emission Limits.**

a. For the purposes of determining compliance with rolling average limits required under this Consent Decree: (i) at least 365 days is required after the initial compliance date for an applicable 365-day rolling average limit in order to have sufficient data to evaluate compliance with such 365-day rolling average limit; and (ii) at least 7 days is required after the initial compliance date for an applicable 7-day rolling average limit in order to have sufficient data to evaluate compliance with a 7-day rolling average limit. Accordingly: (i) each applicable 365-day rolling average limit shall become enforceable commencing 365 days after the date set forth in this Consent Decree as the date by which ExxonMobil shall begin complying with such

limit; and (ii) each applicable 7-day rolling average limit set out above shall become enforceable commencing 7 days after the date set forth in this Consent Decree as the date by which ExxonMobil shall begin complying with such limit.

b. If ExxonMobil proposes to use an alternative monitoring plan to monitor an FCCU's compliance with an applicable emission limit during certain specified periods – as provided by Subparagraph 19.c, Paragraph 20 , 31, or 41, or Subparagraph 44.d – then ExxonMobil shall use its best efforts to submit a timely and complete application for approval of the proposed alternative monitoring plan, so that EPA can act on the application in a timely fashion. ExxonMobil shall use the proposed alternative monitoring plan to monitor compliance, if necessary, to meet the requirement to use an alternative monitoring plan while EPA is considering ExxonMobil's application (such as if there is a period of Malfunction while the application remains under EPA review). If EPA approves any such proposed alternative monitoring plan, ExxonMobil shall use the EPA-approved alternative monitoring plan to monitor compliance during the specified periods, as provided by Subparagraph 19.c, Paragraph 20 , 31, or 41, or Subparagraph 44.d. If EPA disapproves a proposed alternative monitoring plan, ExxonMobil shall submit to EPA for approval a substitute plan for compliance monitoring within ninety (90) days of receiving notice of the disapproval. Such substitute plan may include a revised alternative monitoring plan application, physical or operational changes to the equipment, or additional or different monitoring.

259. **Startup, Shutdown, Malfunction.** Notwithstanding the provisions of this Consent Decree regarding startup, shutdown, and Malfunction, this Consent Decree does not exempt ExxonMobil from the requirements of state laws and regulations or from the requirements of any permits or plan approvals issued to ExxonMobil, as these laws, regulations,

permits, and/or plan approvals may apply to startups, shutdowns, and Malfunctions at the Covered Refineries.

260. **Failure of Compliance.** The United States and the Applicable Co-Plaintiffs do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that ExxonMobil's complete compliance with the Consent Decree will result in future compliance with the provisions of the Clean Air Act and/or corresponding state or local laws. Notwithstanding the review or approval by the United States or the Applicable Co-Plaintiff, including their applicable state agencies, of any plans, reports, policies or procedures formulated pursuant to the Consent Decree, ExxonMobil shall remain solely responsible for compliance with the terms of the Consent Decree, all applicable permits, and all applicable federal, state and local laws and regulations, except as provided in Section XIV (Force Majeure).

261. **Service of Process.** ExxonMobil hereby agrees to accept service of process by mail with respect to all matters arising under or relating to the Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The persons identified by ExxonMobil at Paragraph 266 (Notice) are authorized to accept service of process with respect to all matters arising under or relating to the Consent Decree.

262. **Post-Lodging/Pre-Entry Obligations.** Obligations of ExxonMobil under this Consent Decree to perform duties scheduled to occur after the Date of Lodging of the Consent Decree, but prior to the Entry Date, shall be legally enforceable on and after the Entry Date. Liability for stipulated penalties, if applicable, shall accrue for violation of such obligations and payment of such stipulated penalties may be demanded by the United States and/or the Applicable Co-Plaintiffs as provided in this Consent Decree, provided that stipulated penalties

that may have accrued between the Date of Lodging of the Consent Decree and the Entry Date may not be collected unless and until this Consent Decree is entered by the Court.

263. **Costs.** The United States, the Co-Plaintiffs, and ExxonMobil shall each bear their own costs and attorneys' fees.

264. **Public Documents.** All information and documents submitted by ExxonMobil to EPA and the Applicable Co-Plaintiffs pursuant to this Consent Decree shall be subject to public inspection in accordance with the respective statutes and regulations that are applicable, unless subject to legal privileges or protection or identified and supported as business confidential in accordance with the respective state or federal statutes or regulations.

265. **Public Notice and Comment.** The Parties agree that the Consent Decree may be entered upon compliance with the public notice procedures set forth at 28 C.F.R. § 50.7, and upon notice to this Court from the United States Department of Justice requesting entry of the Consent Decree. The United States reserves the right to withdraw or withhold its consent to the Consent Decree if public comments disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Further, the Parties acknowledge and agree that final approval by the State of Louisiana, through the LDEQ, and entry of this Consent Decree is subject to the requirements of La. Rev. Stat. Ann. § 30:2050.7, which provides for public notice of this Consent Decree in newspapers of general circulation and the official journals of parishes in which ExxonMobil facilities are located, an opportunity for public comment, consideration of any comments, and concurrence by the Louisiana Attorney General.

266. **Notice.** Unless otherwise provided herein, notifications to or communications between the Parties shall be deemed submitted on the date they are postmarked. Notifications and communications shall be sent by U.S. Mail, postage pre-paid, or private courier service,

except for notices under Section XIV (Force Majeure) and Section XV (Retention of Jurisdiction/Dispute Resolution) which shall be sent by overnight mail or by certified or registered mail, return receipt requested. Each report, study, notification or other communication of ExxonMobil shall be submitted as specified in this Consent Decree, with copies to EPA Headquarters, the applicable EPA Region, and the Applicable Co-Plaintiff. If the date on which a notification or other communication is due falls on a Saturday, Sunday or legal holiday, the deadline for such submission shall be enlarged to the next business day. Except as otherwise provided herein, all reports, notifications, certifications, or other communications required under this Consent Decree to be submitted or sent to the United States, EPA, the Applicable Co-Plaintiffs, and/or ExxonMobil shall be addressed as follows:

As to the United States:

Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044-7611
Reference Case No. 90-5-2-1-07030

As to EPA:

EPA Headquarters:

U.S. Environmental Protection Agency
Director, Air Enforcement Division
Office of Regulatory Enforcement
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 2242-A
Washington, DC 20460

with a hard copy to

Director, Air Enforcement Division
Office of Regulatory Enforcement
c/o Matrix Environmental & Geotechnical Services
215 Ridgedale Avenue
Florham Park, NJ 07932

and an electronic copy to
neichlin@matrixengineering.com
foley.patrick@epa.gov

EPA Region 5:

Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Blvd. (AE-17J)
Chicago, IL 60604
Attn: Compliance Tracker

and

Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd. (C-14J)
Chicago, IL 60604

EPA Region 6:

Chief
Air, Toxics, and Inspections Coordination Branch
Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

EPA Region 8:

Air Program Coordinator
U.S. Environmental Protection Agency, Region 8
Montana Office
10 W. 15th St., Suite 3200
Helena, MT 59626

EPA Region 9:

Director
Air Division
Mail Code AIR-1
USEPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

As to the State of Illinois:

Manager Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, IL 62794

and

Field Operations Section
Illinois Environmental Protection Agency
9511 West Harrison
Des Plaines, IL 60016

and

Maureen Wozniak
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, IL 62794

As to the State of Louisiana:

Peggy M. Hatch
Administrator, Enforcement Division
Office of Environmental Compliance
Louisiana Department of Environmental Quality
P.O. Box 4312
Baton Rouge, LA 70821-4312

As to the State of Montana:

Enforcement Division Administrator
Montana Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

and

Bureau Chief
Air Resources Management Bureau
Montana Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

As to ExxonMobil:

Assistant General Counsel, Litigation
Law Department
Exxon Mobil Corporation
800 Bell Street
ExxonMobil Building, Room 1503B
Houston, TX 77022
Tel. 713-656-3431
Fax 713-656-7719

and

Downstream Environment and Global Compliance Manager
Exxon Mobil Corporation
3225 Gallows Road
Room 8B 0233
Fairfax, VA 22037-0001

With a copy to each applicable refinery as shown below:

As to Baton Rouge:

Refinery Manager
ExxonMobil Baton Rouge Refinery
P.O. Box 551
Baton Rouge, LA 70821-0551

As to Baytown:

Refinery Manager
ExxonMobil Baytown Refinery
P.O. Box 3950
Baytown, TX 77522-3950

As to Beaumont:

Refinery Manager
ExxonMobil Beaumont Refinery
P.O. Box 3311
Beaumont, TX 77704

As to Billings:

Refinery Manager
ExxonMobil Billings Refinery
P.O. Box 1163
Billings, MT 59103

As to Joliet:

Refinery Manager
ExxonMobil Joliet Refinery
P.O. Box 874
Joliet, IL 60434

As to Torrance:

Refinery Manager
ExxonMobil Torrance Refinery
3700 W. 190th Street
Torrance, CA 90509-2929

Any Party may change either the notice recipient or the address for providing notices to it by serving all other parties with a notice setting forth such new notice recipient or address.

267. **Approvals.** All EPA approvals or comments required under this Consent Decree shall be made in writing. All approvals by an Applicable Co-Plaintiff shall be sent from the offices identified in Paragraph 266 (Notice).

268. **Paperwork Reduction Act.** The United States has determined that the information required to be maintained or submitted pursuant to this Consent Decree is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 et seq.

269. **Consent Decree Modifications.** The Consent Decree contains the entire agreement of the Parties and shall not be modified by any prior oral or written agreement, representation or understanding. Prior drafts of the Consent Decree shall not be used in any action involving the interpretation or enforcement of the Consent Decree. Non-material modifications to this Consent Decree shall be in writing and shall be effective when signed by EPA and ExxonMobil. For the purpose of this Paragraph, non-material modifications include, but are not be limited to: (i) any modifications to the frequency of reporting obligations; and (ii) any modifications to schedules that do not extend the ultimate date for compliance with emissions limitations following the installation of control equipment or the completion of a catalyst additive program. The United States will file non-material modifications with the Court on a periodic basis. Material modifications to this Consent Decree shall be in writing, signed by EPA, the Applicable Co-Plaintiff, and ExxonMobil, and shall be effective upon approval by the Court.

XVIII. TERMINATION

270. **Prerequisites to Termination.** This Consent Decree shall be subject to termination upon motion by the United States, in consultation with the Applicable Co-Plaintiffs, or ExxonMobil (under the procedure identified in Paragraph 272). Prior to either party seeking termination, ExxonMobil shall have completed and satisfied all of the following requirements with respect to this Consent Decree:

- i. installation of control technology systems as specified in this Consent Decree;

- ii. compliance with all provisions contained in this Consent Decree, which compliance may be established for specific parts of the Consent Decree in accordance with Paragraph 271, below;
- iii. payment of all penalties and other monetary obligations due under the terms of the Consent Decree; no penalties or other monetary obligations due hereunder can be outstanding or owed to the United States or the Applicable Co-Plaintiffs;
- iv. completion of the SEPs and the payment for BEPs required by Section VIII;
- v. application for and receipt of permits incorporating the surviving emission limits and standards established under Subsection V.Q; and
- vi. operation for at least one year of each unit in compliance with the emission limits established herein, and certification of such compliance for each unit within the first six (6) month period progress report following the conclusion of the compliance period.

271. **Certification of Completion.**

a. Prior to moving for termination, ExxonMobil may certify completion for one or more of the Covered Refineries of one or more of the following Subsections of the Consent Decree, provided that all of the related requirements have been satisfied:

- i. Subsections V.B - V.F, relating to FCCUs;
- ii. Subsection V.G, relating to Combustion Units;
- iii. Subsection V.H, relating to Heaters, Boilers and Other Fuel Gas Combustion Devices;
- iv. Subsection V.I, relating to SRPs;
- v. Subsections V.J - V.L, relating to Flaring;
- vi. Subsections V.N, relating to Benzene Waste NESHAAP;
- vii. Subsection V.O, relating to LDAR;
- viii. the requirements of Subsection V.P relating to certain other compliance requirements at the Billings Refinery;

- ix. The requirements of Subsection V.P relating to certain other compliance requirements at the Joliet Refinery; and
- x. Section VIII, relating to Environmentally Beneficial Projects.

b. Within 90 days after ExxonMobil concludes that any of the parts of the Consent Decree identified in this Paragraph 271 have been completed, ExxonMobil may submit a written report to the Parties listed in Paragraph 266 (Notice) describing the activities undertaken and certifying that the applicable Paragraphs have been completed in full satisfaction of the requirements of this Consent Decree, and that ExxonMobil is in substantial and material compliance with all of the other requirements of the Consent Decree. The report shall contain the following statement, signed by a responsible corporate official of ExxonMobil:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

c. Upon receipt of ExxonMobil's certification, EPA, after reasonable opportunity for review and comment by the Applicable Co-Plaintiffs, shall notify ExxonMobil whether the requirements set forth in the applicable Paragraphs have been completed in accordance with this Consent Decree. The parties recognize that ongoing obligations under such Paragraphs remain and necessarily continue (e.g., reporting, record keeping, training, auditing requirements), and that ExxonMobil's certification is that it is in current compliance with all such obligations.

- i. If EPA concludes that the requirements have not been fully complied with, EPA shall notify ExxonMobil as to the activities that must be undertaken to complete the applicable Paragraphs of the Consent Decree. ExxonMobil shall perform all activities described in the notice, subject to its right to invoke the dispute resolution procedures set forth in Section XV (Dispute Resolution).